

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
TENNESSEE WESTERN DIVISIONFILED BY *[Signature]* D.C.
05 DEC 29 AM 7:27

JUDY GROCE, Individually and as)
 Executrix of the ESTATE OF ROBERT)
 S. MARTIN, and on behalf of the)
 children, grandchildren, beneficiaries,)
 heirs, brothers and sisters of)
 ROBERT S. MARTIN, and the)
 ESTATE OF ROBERT S. MARTIN,)
)
 Plaintiff,)
 v.)
)
 KINDRED NURSING CENTERS)
 LIMITED PARTNERSHIP, d/b/a)
 SPRING GATE REHABILITATION)
 AND HEALTHCARE CENTER,)
)
 Defendant.)

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W/D OF TN, MEMPHIS

CAUSE NO. 2:05-cv-02367-BBD-sta

MOTION GRANTEDDATE: 12-23-2005*Bernice Bouie Donald*
BERNICE BOUIE DONALD
U.S. DISTRICT JUDGE**DEFENDANT'S MOTION AND MEMORANDUM OF LAW TO STAY ALL
PROCEEDINGS PENDING OUTCOME OF PRIVATE MEDIATION**

Defendant, Kindred Nursing Centers Limited Partnership, d/b/a Spring Gate Rehabilitation and Healthcare Center (hereinafter "Spring Gate"), by and through counsel, and pursuant to *Federal Rules of Civil Procedure* Rule 7 and Rule 40, respectfully moves the Court to enter an Order staying all proceedings in this case pending the outcome of private mediation.

According to Rule 40 of the *Federal Rules of Civil Procedure*, United States District Courts have discretion regarding the placement of actions on their trial calendars. Plaintiff's counsel has indicated that he will not oppose Defendant's Motion to Stay All Proceedings Pending Outcome of Private Mediation. Furthermore, entering the Agreed Order will allow the Court to retain jurisdiction over this matter while simultaneously preserving judicial resources by providing the parties an opportunity to resolve the dispute without the Court's intervention.

Should the parties fail to resolve the dispute via private mediation, counsel for Defendant will

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(8)

notify the Court within fourteen (14) days of the mediation and request that the Court conduct a Scheduling Conference pursuant to Rule 16 of the *Federal Rules of Civil Procedure*.

As the parties have conferred and have determined that this matter is appropriate for private mediation, Defendant respectfully requests that the Court enter the Agreed Order Staying All Proceedings Pending Outcome of Private Mediation submitted with Defendant's motion.

A Certificate of Consultation with opposing counsel and Proposed Agreed Order are submitted in accordance with Local Rule 7.2.

Respectfully submitted,

CHAMBLISS, BAHNER & STOPHEL, P.C.

By: 

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Notice of Distribution

This notice confirms a copy of the document docketed as number 8 in case 2:05-CV-02367 was distributed by fax, mail, or direct printing on December 29, 2005 to the parties listed.

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Honorable Bernice Donald
US DISTRICT COURT